

## **HIRING A LICENSED CONTRACTOR**

You may find the following suggestions helpful for hiring a licensed contractor. Our attempt here is to provide you with as many suggestions as possible and allow you to choose those which are most helpful and applicable to your project. Some of these suggestions may not be necessary for smaller construction projects.

This document may be printed and used as a checklist to assist you in hiring a licensed contractor. If you are unable to print it and still desire a copy, call our office at (602) 542-1525 [or toll-free within AZ outside Maricopa County at (888) 271-9286] or e-mail us at [webmaster@azroc.gov](mailto:webmaster@azroc.gov) and we will mail or fax a copy to you.

### **Who needs a license?**

In Arizona, all contractors who perform residential or commercial construction, remodeling or repair must be licensed. One exception, however, applies to work performed where the labor and materials total less than \$750, there is no building permit required and the work is not a part of a larger project.

State law also provides an exemption from licensure for developers who are the owners of property acting as developers who build structures or appurtenances to structures on their property for the purpose of sale or rent and who contract for such a project with a general contractor properly licensed by the ROC. The licensed contractors' names and license numbers must be included in all sales documents.

The general contractor, licensed by the ROC, has a duty to construct the home according to applicable building codes and minimum workmanship standards. However, the general contractor may not be responsible for changes dictated by the developer which are unrelated to building codes or minimum workmanship standards since the general contractor is under contract to the developer, not to the homebuyer. In such matters under this exemption, the homeowner has no recourse through the ROC against an unlicensed developer. Homebuyers may wish to consider this when shopping for a home.

### **What are the advantages of choosing a licensed contractor?**

- Licensed contractors are required to be bonded.
- Licensed contractors are responsible for injuries to their employees. If you use an unlicensed contractor, you may be held responsible.
- Complaints may be filed against a licensed contractor for up to two years from the date of occupancy or discovery of defect, whichever comes first, or from the date the work was last performed. The Registrar of Contractors can revoke or discipline licensed contractors if they fail to perform corrective work.

Customers of residential licensed contractors may have access to the Residential Contractors Recovery Fund and may be eligible for recovery of up to \$30,000 for poor work performed by a residential contractor who refuses or is unable to correct the work.

# **HIRING A LICENSED CONTRACTOR**

## **Building a swimming pool?**

Pool buyers considering a residential in-ground swimming pool should be cautious if asked to sign a contract that requires a substantial portion of the total price of the pool as a down payment or if a payment schedule requires that the contractor is to receive a substantial portion of the money before performing a significant amount of work.

A typical swimming pool payment schedule should be similar to the sample below:

- A maximum of 1,000 dollars as a down payment.
- Not more than 30% of the contract price plus any written change orders after excavation for the pool shell.
- Not more than 30% of the contract price plus any written change orders after steel, plumbing and pneumatically applied concrete are installed.
- Not more than 30% of the contract price plus any written change orders after the installation of decking material.
- The unpaid balance including any written change orders before the application of finishing interior materials.
- Any changes, additions or deletions to the work specified in the original contract price, shall require a written change order whether or not there is an adjustment in the total cost of the pool.

Pool buyers should know that they may request a contractor's **payment and performance bond** for their project. An insurance company issues payment and performance bonds which guarantee all material suppliers and subcontractors will be paid and that funds will be available to complete the project if the pool contractor is unable to do so. The cost of the payment and performance bond is borne by the pool buyer and is separate and apart from the state-required contractor's license bond. A pool buyer wanting this extra protection should discuss the matter with the swimming pool contractor. Some contractors may be unable to qualify for a payment and performance bond and, if so, the pool buyer may wish to consider a different pool contractor.

Pool buyers should verify, directly with the insurance company, that any payment and performance bonds are in effect before any work is started. The price of these bonds are determined, in part, by the contractors insurability and the bonding company's fees but typically will be about 2 to 3 percent of the total cost of the pool.

•

## **The Arizona Registrar of Contractors recommends you be cautious about:**

- Contractors or individuals soliciting work door-to-door.
- Contractors or individuals offering "special deals" for jobs using "leftover" materials.
- Telephone solicitations.

## **HIRING A LICENSED CONTRACTOR**

### **Before you hire a contractor:**

- ☐ 1. Develop a list of potential contractors you might be interested in hiring to perform your project.
- ☐ 2. For each contractor, obtain:
  - The owner's name(s).
  - The correct spelling of the company name(s).
  - Their five or six-digit contractor's license number(s) or the information from the contractor's license certificate(s) or contractor's license identification card(s).
- ☐ 3. Call the number listed above or visit our web site to check out each contractor with the Registrar of Contractors to verify that they have a current license and are properly licensed to perform the work specified. Our automated information system is available 24 hours a day, seven days a week. You may also want to check with the Better Business Bureau.
- ☐ 4. Check the contractor's complaint record with the Registrar of Contractors for the number of complaints for the last two calendar years. When considering the number of complaints a contractor has on record, you should compare the number of years the contractors have been in business and the construction volume. A contractor who has numerous complaints but has only been in business for a few months and has only built a few homes may not be your best choice.
- ☐ 5. Once you are satisfied the contractors are properly licensed, obtain bids from at least three contractors. Each contractor should be provided with detailed instructions regarding what it is you want done. Include information about the quality of materials to be used. The information used to obtain the bids should also be included in the final contract documents.
- ☐ 6. If you are planning new construction, consider having a soils test performed to determine whether the soil under the proposed structure is adequate for the loads imposed. The soil test should also determine if any adverse soil condition exist such as expansive soil, high water table, improper compaction or the presence of foreign material.
- ☐ 7. New home construction or additions should include some form of termite protection and should be discussed with your builder regarding the options available. There are numerous methods available for termite protection, some of which are discussed in our Arizona Licensed Contractor Newsletters, Winter 1999 and Summer 2000 which can be found at this web site under "Publications."

## **HIRING A LICENSED CONTRACTOR**

- ☐ 8. Be cautious about using a contractor's bid that is substantially lower than the other bids. It may indicate the contractor was not aware of all the work required or the contractor intends to use alternate building materials.

### **Check out the following issues for each contractor:**

- ☐ 1. Does the information given to you by the company match that information provided by the Registrar of Contractors?
- ☐ 2. How long has the company been in business? Does the contractor list a physical address or just a post office box number? Can the company provide you with any information regarding their financial stability?
- ☐ 3. Does the contractor have an office or showroom? Have you visited the contractor's office or showroom? Does the contractor's telephone number work when called? Was the call answered courteously?
- ☐ 4. Does the contractor have models, samples or a list of past projects as examples of their work for you to see which provides a standard of quality or workmanship proposed? What construction methods, materials or techniques does the contractor plan to use? Is the contractor a member of any professional organizations?
- ☐ 5. Has the contractor been able to provide you with favorable references? Have you checked the references? Does the company have a good reputation? Has the contractor provided you with a copy the contract form that they use and you would be signing? Have you read the proposed contract?
- ☐ 6. Has the contractor provided you with formal start and completion dates? Does the contract contain a liquidated damage clause if the completion date cannot be met? Has the contractor provided you with a list of subcontractors that will be working on the job?
- ☐ 7. Are you aware of the legal implications of agreeing to a contract provision allowing a contractor to substitute "equal or better" products or services without your specific approval? You may wish to specify brand names, model numbers, styles or types in the contract documents and indicate that no substitutions are allowed without prior written approval. Does the contract contain a liquidated damage clause if the specified products are not used?
- ☐ 8. Has the contractor made verbal promises to you? Are they willing to put those promises in writing including a completion date, quality and/or quantity of materials, price, etc.?

## HIRING A LICENSED CONTRACTOR

- ☐ 9. Does the contractor have liability insurance? Does the contractor have workers' compensation insurance? Ask for proof of liability insurance and workers' compensation insurance. Verify this information with the insurance carrier.
- ☐ 10. Has the contractor offered a written guarantee?
- ☐ 11. Is the contractor pressuring you to sign up at once?
- ☐ 12. Never sign anything you do not understand. By signing, you may be giving up some of your rights such as warranties, dispute resolution options, etc.
- ☐ 13. Building permits may be required. Contractors usually obtain the permits but, ultimately, the owner is responsible for them. Make sure your contract specifies who will obtain any required permits, including those permits required for sewage treatment systems, water wells and hazardous material abatement. You may wish to verify that any required local business license has been obtained.
- ☐ 14. Ask for lien releases from the contractor for each subcontractor working on the project before you make a progress payment. Verify the lien releases with the subcontractors.
- ☐ 15. Unless the job is small, payments should be made periodically as the construction progresses. Do not release payments until the required work to that point is properly completed. Make your checks payable to the **company**, not to an individual. Never make your checks payable to "cash." If you pay in cash, be sure to get a **dated and signed** receipt.
- ☐ 16. Verbal contracts, due to their lack of specificity, are a major cause for complaints filed with the Registrar of Contractors. Keep good written records. Get everything; especially change orders to the original contract, in writing!
- ☐ 17. Communicate with your contractor during the project. Ask questions. Make notes. If you believe a serious problem exists, write a letter to the contractor to document your concerns.
- ☐ 18. Make your final payment only after the work has passed all inspections and you are satisfied the project is properly completed.
- ☐ 19. Use a specific written contract that includes these minimum elements from Arizona Revised Statute 32-1158.

## **HIRING A LICENSED CONTRACTOR**

- The name of the contractor and the contractor's business address and license number.
- The name and mailing address of the owner and the jobsite address or legal description.
- The date the parties entered into the contract.
- The estimated date of completion of all work to be performed under the contract.
- A description of the work to be performed under the contract.
- The total dollar amount to be paid to the contractor by the owner for all work to be performed under the contract, including all applicable taxes.
- The dollar amount of any advance deposit paid or scheduled to be paid to the contractor by the owner.
- The dollar amount of any progress payment and the stages of construction at which the contractor will be entitled to collect progress payments during the course of construction under the contract.

**Visit the Registrar of Contractors website at [www.azroc.gov](http://www.azroc.gov) for additional information.**